

TOWN OF THORNTON

Zoning Board of Adjustment

Approved on:

ZBA Initials:

Rec'd by Town Clerk on:

Town Clerk Initials:

[Handwritten signatures and initials]
9/25/17
[Handwritten initials]

ZONING BOARD OF ADJUSTMENT MEETING MINUTES

Wednesday, June 21, 2017

CALL TO ORDER:

W. Rose called the meeting to order at 7:03 p.m.

ROLL CALL:

The following members were present:

W. Rose, Chairman D. Day, Member J. Marshall, Member
S. Bartlett, Member

The following member was not present: C. Hodges, Member

Also Present: J. Fleury, Board Secretary

APPROVAL OF MINUTES:

MOTION: "To accept the minutes of March 8, 2017 as presented."

Motion: J. Marshall

Second: S. Bartlett

Discussion: None.

Motion Passes: 4-0

OTHER BUSINESS:

W. Rose stated that J. Fleury will be transcribing the minutes in the immediate term until additional staff is needed.

W. Rose stated that the Board of Selectmen advised that the ZBA should set a regular monthly meeting date to allow for better planning for meetings and to delegate ZBA duties as needed with the current office staff. This will help with noticing for applications. Meetings will only be held if needed even though they are scheduled in advance.

W. Rose discussed a regular meeting date for ZBA to implement a meeting schedule.

The Board discussed the last Wednesday of the month.

MOTION: "To approve the regular ZBA meeting schedule to include the fourth Wednesday of the month, if needed."

Motion: D. Day

Second: J. Marshall

Discussion: None.

Motion Passes: 4-0

J. Fleury stated that the potential dates that were cross referenced and revealed no conflict were for the last Wednesday of the month rather than the fourth Wednesday of the month.

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MOTION: "To amend the regular ZBA meeting schedule to include the last Wednesday of the month, if needed."

Motion: D. Day
Second: J. Marshall
Discussion: None.
Motion Passes: 4-0

PUBLIC HEARING: Special Exception application for property owners Amy Pitman, Charles Pitman, and Linda Pitman on property identified as Tax map 6 Lot 15-1 located on 3447 US Route 3.

At 7:15 p.m. W. Rose opened the Public Hearing to hold a hearing on the application submitted by property owners Amy Pitman, Charles Pitman, and Linda Pitman for a Special Exception as provided for in Article IV of the Thornton Zoning Ordinance for change of use for "production and sale of locally produced crafts and goods" in a commercial zone (c). The applicant's expressed intent is to set the property as a "boutique" winery, café, and gift shop on property identified as Tax map 6 Lot 15-1 located on 3447 US Route 3.

A. Pitman stated that they are planning on having a small winery, gift shop, and café. The café will be a very small operation to include coffee and muffins. They make a product called "Topsy Treats" that is sold at farmers markets which they are able to do without a license.

A. Pitman stated that in order for them to grow this part of their business and offer online sales they need to have a commercial kitchen.

A. Pitman explained that if they want to sell their product at larger farmer markets in Nashua or Manchester, NH they would need to have a commercial kitchen as well due to the zoning in each town.

A. Pitman stated that the winery will be a small winery and they have their federal license for this operation already. They have a few more items to complete to comply with the state regulations, once this is complete, the State will do an inspection.

W. Rose asked the applicant what brought them to the Zoning Board for approval.

A. Pitman stated that she met with the Planning Board as a preliminary step. A. Pitman stated that the Planning Board did not see a problem with her plan but that the Zoning Board had to approve it because it was not an already approved use.

A. Pitman asked if their information relative to their plans were forwarded from the Planning Board.

W. Rose confirmed that the paper work submitted by the Pitman's to the Planning Board was forwarded for the Zoning Board file. A copy of the floor plan was submitted at the meeting for the ZBA to review.

J. Marshall asked for clarification as to why the applicant requires a special exception from the ZBA.

A. Pitman stated that she met with Brian Regan, Planning Director, and was informed that she should meet with the Zoning Board because there wasn't any approved use for a winery in the Zoning Ordinance.

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S. Bartlett stated that the Zoning Ordinance does not specifically approve a locally made winery business as an approved use in that area.

W. Rose stated that this use does fall under the "production and sale of locally produced crafts and goods" in the table of uses but is only allowed by special exception. Hence, the required public hearing for the application.

W. Rose read Article 9 section 3 of the Thornton Zoning Ordinance, "The Zoning Board of Adjustments shall the following powers to authorize special exceptions to the terms of the ordinance for uses specifically identified in the Table of Uses. The Board may grant special exceptions in appropriate cases and subject to appropriate conditions so as to be in harmony with the general purpose and intent of the Zoning Ordinance. In granting a special exception, the Board shall apply the following standards:

a. No detriment to property values in the vicinity of the proposed development will result on account of the location or scale of buildings, structures, parking areas, or other access points; the emissions of odors, smoke, gas, dust, noise, glare, heat vibration, or other materials.

A. Pitman stated that there will be no detriment to property values in the vicinity.

W. Rose called for any questions from Board Members relative to section a.

J. Marshall asked if there would be any changes to the exterior of the building.

A. Pitman stated that she may touch up paint but no other changes are anticipated.

W. Rose asked if there would be any additional fumes or odors associated with the winery.

A. Pitman stated that most of the material will be juice with no waste, when they use grapes or local fruit there may be some left over which will be composted.

J. Marshall asked what type of volume the applicant expects to have for the winery.

A. Pitman stated that she expects the volume to be small, at less than 100 cases per year. There will not be tractor trailer loads delivered.

D. Day indicated that any other change in the site would require an application with the Planning Board.

W. Rose asked the applicant if they have discussed a site plan review with the Planning Board.

A. Pitman stated that the Planning Board informed her that she only needed to meet with the ZBA since she already has a café, the floor plan will stay the same, and she will have met regulations for federal and state requirements.

A. Pitman stated that the café was not operated for more than a year. A. Pitman explained that they are still making their "Topsy Treats" and they are working towards licensing for a commercial kitchen. There is no actual store/café right now.

b. No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.

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A. Pitman stated that there will be no hazard or toxic materials associated with this use.

c. No creation of a traffic safety hazard or substantial traffic congestion in the vicinity of the proposed Special Exception.

J. Marshall asked what the status is of their driveway relative to State of NH concerns.

A. Pitman stated that she will have a large space for parking. When the café was there prior there were only a few cars at a time. A. Pitman stated that there is plenty of room for parking.

W. Rose stated that the NH Department of Transportation received a notice of the application as an abutter. W. Rose read the correspondence received from NHDOT District 3:

"Attached to this email is the Commissioners' Return of Highway Layout for the Thornton S-315 (1) – P-1258 Project in 1970. This project realigned a half mile section of US Route 3 along with the construction of a new approach to Mirror Lake Road. The highlighted section of the second page of the Return corresponds to the 3rd plan sheet, showing the old and new approaches to Mirror Lake Road.

In short, the take by the Return for highway right of way that has an impact on this specific ZBA meeting covers the area from the northerly sideline of the old roadway adjacent to the Kosoff property and Alpaugh (Pitman) property and extends southerly across the entire island between the old and new roadways to a point in Hubbard Brook. Almost the entire area of pavement in front of the store and southerly to the new road is state controlled right of way and nothing should be allowed in this area other than State Highway Activities."

A. Pitman asked if this means that her driveway belongs to the State of NH.

W. Rose stated that if the State owns the right of way, they do not maintain it, but have control over its use. He noted that the area on the map was not highlighted as indicated by the State.

A. Pitman stated that the property used to be a general store and that area was used for parking for many years.

J. Marshall asked if the NHDOT expressed what they would like to see for parking or use of the driveway.

W. Rose stated that the letter did not indicate any suggestions for parking.

J. Marshall stated that a letter received from the NHDOT requests an updated driveway permit and site plan for the change in use.

W. Rose stated that the letter implies that the State is looking to control the access but it does not state that plainly.

D. Day asked if the applicant's had customers visiting the site this past year.

A. Pitman stated they had no visits from customers during the past year but had shipments delivered for her business.

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D. Day stated that NHDOT concern is relative to the size and shape of the parking area and the direct wide access to US Route 3. D. Day stated that as soon as the applicant is in contact with the State they will know what the State is requiring for access and parking.

J. Marshall read part of a letter received from NHDOT District 3 dated June 19, 2017 that states that the "department of transportation requires an updated driveway application and Site plan for a change in use from the landowners for the above-mentioned proposal. The Department feels that there may be a concern for the size and shape of the parking area and the direct wide access to US Route 3. The Department cautions the Planning Board to delay any decisions until the permit application process is complete."

A. Pitman asked if this was a change in use since it was used as a café and general store in the past.

W. Rose stated that the change in use as it relates to zoning has to do with a period of inactivity. If it has not been used as a store or café after a time period has lapsed, it is considered to be a change in use even if the use is still a store or café.

d. No excessive demand on municipal services and facilities, including but not limited to waste disposal, police and fire protection, and schools.

A. Pitman stated that there is no safety hazard or excessive demands.

e- The proposed use will not result in degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection.

W. Rose asked if there are wetlands on site.

A. Pitman stated that there is a small area of wetlands but dries up.

A Pitman agreed that there will be no degradation of existing surfaces.

f- Adequate and appropriate facilities will be provided for the intended use.

S. Bartlett asked if the applicant anticipates the need for a larger septic system with this change.

A. Pitman stated that the impact will be no larger than when the café was functional. She had the septic pumped annually and was never a problem.

J. Marshall asked how many customers are expected. A. Pitman stated that the expectation for customers is about 10 to 15 per day. Eventually changes can be made if the customer count becomes higher in the future.

A. Pitman stated that adequate and appropriate facilities will fit inside the existing structure.

W. Rose called for any additional questions from Board members on the application.

W. Rose noted that no members from the public were present for comment.

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W. Rose closed the public hearing at 8:30 p.m. and the board members began to deliberate.

J. Marshall asked if the Board can grant the special exception on a condition that they obtain state approval.

W. Rose stated that the Board can grant the special exception with appropriate conditions.

J. Marshall stated that she has no problem with this use and is a similar use that has been in that location previously. She wants to see the issue with NHDOT resolved as a concerned abutter.

A. Pitman asked if the board approves the exception and goes to the Planning Board and then if there is an issue with parking, can the Town come to her and request that she fixes the problem.

W. Rose stated that the State is reporting that there is little access and no parking. This could create a traffic safety hazard.

A. Pitman asked if the town would be able to come to her if there was a hazard after the fact and ask her to address it.

W. Rose stated that ZBA can approve this as an approved use, but does not want to create a situation for the Town that is currently not an issue by approving the application without addressing the concerns from NHDOT.

W. Rose stated that the Board has three options,

- 1) To not approve the application for special exception.
- 2) To approve the application for special exception with conditions.
- 3) To continue the hearing to allow the process with NHDOT to be resolved before the matter is discussed again and a certificate is issued.

W. Rose asked the applicant if they have a preference for the granting of the special exception.

A. Pitman stated that she would prefer that the application be approved this evening with conditions.

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MOTION "To approve the request for Special Exception from Article IV Table of Uses to allow a small winery, café, and retail location in the Commercial Zone on property identified as Tax map 6 Lot 15-1 located on 3447 US Route 3 submitted by property owners Amy Pitman, Charles Pitman, and Linda Pitman subject to stipulations as discussed to include the following condition:

1. That the applicant successfully completes the NHDOT driveway permit process."

Motion: J. Marshall

Second: S. Bartlett

Discussion: None.

Motion Passes: 4-0

COMMUNICATIONS AND MISCELLANEOUS:

W. Rose stated that there was conversation with the Selectboard regarding making new processes for the Zoning Board to make it easier to administer from the office staff level, as well as the ability to help the Board update their forms and applications.

W. Rose stated that the Town of Holderness will be conducting a procedures meeting for Zoning board of Adjustments Members on Tuesday, September 19, 2017. Legal services from NHMA will be speaking at the training. W. Rose will forward the meeting information to ZBA members

ADJOURNMENT:

8:40 p.m. MOTION: "To adjourn."

Motion: J. Marshall

Second: S. Bartlett

Discussion: None

Motion Passes: 4-0

Respectfully submitted,

Jessi Fleury
Board Secretary